



FEDERAL ELECTION COMMISSION
Washington, DC 20463

FEB 10 2017

Daniel W. Meek, Esq.

Portland, OR 97219

RE: MUR 6846
DeFazio for Congress and Jef A Green
in his official capacity as treasurer

Dear Mr. Meek:

On July 1, 2014, the Federal Election Commission (the "Commission") notified DeFazio for Congress and its treasurer, your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations. A copy of the complaint was forwarded to your clients at that time.

On February 7, 2017, the Commission found, on the basis of the information in the complaint, and information provided by DeFazio for Congress and Jef A Green in his official capacity as treasurer ("Committee"), that there is no reason to believe that the Committee violated 52 U.S.C. § 30120 with respect to allegations that its website lacked an adequate disclaimer. In addition, the Commission found no reason to believe that the Committee violated 52 U.S.C. § 30124(a)(1) with respect to allegations that it fraudulently misrepresented its billboards and a website as belonging to the Art Robinson campaign. Finally, the Commission dismissed the allegations that the Committee violated 52 U.S.C. § 30120 by failing to include adequate disclaimers on its billboards. Accordingly, the Commission closed the file in this matter.

Political committees must include a disclaimer on all public communications, which includes outdoor advertising facilities, such as billboards. *See* 52 U.S.C. § 30120; 11 C.F.R. §§ 100.26, 110.11(a)(1). The Commission cautions the Committee for failing to include a disclaimer on several of its billboards.

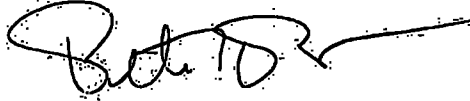
Documents related to this matter will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

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Daniel W. Meek, Esq.
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If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter G. Blumberg", with a long horizontal flourish extending to the right.

Peter G. Blumberg
Acting Deputy Associate General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL & LEGAL ANALYSIS

RESPONDENTS: DeFazio for Congress and Jef A. Green
in his official capacity as treasurer¹

MUR: 6846

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission (the "Commission"). *See* 52 U.S.C. § 30109(a)(1). Complainant, Dr. Art Robinson, and Peter DeFazio were opponents in the 2010 and 2012 general elections in Oregon's Fourth Congressional District. Complainant alleges that DeFazio's campaign violated 11 C.F.R. § 110.11 by placing no disclaimers or deliberately unreadable disclaimers on billboards and by placing a disclaimer on a website "in such a way that most readers would be unlikely to notice it."² Robinson also alleges that the billboards "falsely portrayed" and damaged him and that the DeFazio campaign designed the billboards and the website to intentionally deceive the public into believing that they belonged to Robinson.³

The DeFazio campaign asserts that the billboards and the website met the disclaimer requirements and that the lack of disclaimers on some billboards was due to vendor error and promptly corrected as soon as it was discovered.⁴ The campaign denies that it intended to

¹ Robert Ackerman was treasurer for DeFazio for Congress during the relevant period. Jef A. Green is the current treasurer of record.

² Compl. at 3-11 (May 30, 2014); *see also* 52 U.S.C. § 30120.

³ Compl. at 3-11; *see* 52 U.S.C. § 30124(a). Robinson's complaint also notes that DeFazio sent out a multipage mailing entitled "2012 Congressional Voter Guide," and asserts that it contains "deliberate misrepresentations" of his positions, an unflattering photo of him, and a disclaimer that was placed on the back of the mailing "where readers were unlikely to notice it." Compl. at 9-11. The complaint states that the mailer was "dishonest in its presentation" but concedes that the disclaimer is legal. *Id.* at 11. Based on a review of the mailing, it appears that the disclaimer did comply with the requirements of the Act and relevant regulation. *See* 11 C.F.R. § 110.11(c)(2).

⁴ Resp. at 1-8 (July 22, 2014).

1 misrepresent the billboards and website as Robinson's, and asserts that the content of these
2 advertisements accurately reflected Robinson's statements or views.⁵

3 Because the website meets the disclaimer requirements, the Commission finds no reason
4 to believe that DeFazio for Congress and Jef A. Green in his official capacity as treasurer
5 violated the Act's disclaimer provision at 52 U.S.C. § 30120 with respect to the website. The
6 available evidence demonstrates that three of the eight billboards included in the complaint
7 lacked disclaimers, but that the failure to include disclaimers was due to vendor error and
8 promptly corrected by the campaign upon discovery. The Commission cannot conclusively
9 determine whether the disclaimers on the other five billboards met the Act's disclaimer
10 requirements, but an investigation in this matter would not be a prudent use of the Commission's
11 resources. Therefore, the Commission dismisses the allegation that DeFazio for Congress and
12 Jef A. Green in his official capacity as treasurer violated the Act's disclaimer provision at
13 52 U.S.C. § 30120 with respect to the billboards, and sends a caution letter with respect to the
14 three missing disclaimers.

15 Finally, it does not appear that DeFazio for Congress fraudulently misrepresented the
16 billboards and website as Robinson advertisements. Accordingly, the Commission finds no
17 reason to believe that DeFazio for Congress and Jef A. Green in his official capacity as treasurer
18 violated 52 U.S.C. § 30124(a) and closes the file.

19 II. FACTS

20 Complainant, Dr. Art Robinson, and Peter DeFazio were opponents in the 2010 and 2012
21 general elections in Oregon's Fourth Congressional District and DeFazio for Congress
22 ("Committee") was DeFazio's authorized campaign committee. During the 2010 and 2012

⁵ *Id.* at 2-4.

1 elections, the Committee put up a series of billboards featuring statements purportedly made by
2 Robinson regarding a variety of issues including, taxes, Social Security, public schools, and
3 federal student financial aid.⁶ For instance, the complaint includes a photo of a 2010 billboard
4 with a picture of Robinson holding a microphone and the statement, “Art Robinson: Energy
5 company CEO’s [*sic*] shouldn’t pay taxes” followed by the source for the statement and a
6 reference to the website www.WhoIsArtRobinson.com.⁷ The billboard contains a disclaimer at
7 the bottom which states, “Paid for by DeFazio for Congress.”

8 The Complaint also includes photographs of seven billboards from 2012. The billboards
9 each display the heading “Art Robinson Says:” followed by one of the following statements
10 attributed to Robinson: “Social Security should be ended through attrition,” “Public Schools
11 should be abolished,” “End Federal Student Financial Aid Programs,” and “OSU is a liberal
12 socialist stronghold.”⁸ As with the 2010 billboard, each of the seven billboards displays the
13 source for each statement and the website address www.WhoIsArtRobinson.com.⁹ Four of the
14 billboards contain a disclaimer at the bottom which states, “Paid for by DeFazio for Congress,”
15 and three contain no disclaimer.

16 DeFazio for Congress also created and maintained the website cited on each of the
17 billboards — www.WhoIsArtRobinson.com. The top two-thirds of the home page includes
18 pictures of Robinson and more purported quotes by Robinson on a variety of issues, and contains

⁶ Compl. at 4-8.

⁷ *Id.* at 4. The complaint references three billboards from 2010, but provides a picture of only one, and discusses only that one.

⁸ *Id.* at 5-8.

⁹ In total, the complaint references one billboard from 2010 and seven from 2012. The complaint includes ten billboard photographs, but it appears that three of the photographs are the same billboard. *See* Compl. at 8 (showing two additional photographs of the billboard previously shown in the bottom half of the previous page).

1 links which connect the reader to other pages with additional information about each issue. The
2 bottom third of the home page includes a picture of DeFazio with favorable statements about him
3 and provides links to volunteer for or donate to DeFazio. The home page contains a disclaimer
4 at the bottom which reads, "Paid for by Peter DeFazio for Congress" and is contained within a
5 box. A screen capture of the home page for the website is shown below:

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The screenshot shows a website with a dark background and white text. At the top, there are navigation links: "HOME", "ART ROBINSON ON THE ISSUES", "WHO IS ART ROBINSON ON TWITTER", and "WHO IS ART ROBINSON ON YOUTUBE". The main heading is "All across Oregon, people are asking: Who is Art Robinson?". Below this, there are several sections with quotes and links to learn more about Art Robinson's opinions on various issues.

HOME ART ROBINSON ON THE ISSUES WHO IS ART ROBINSON ON TWITTER WHO IS ART ROBINSON ON YOUTUBE

All across Oregon, people are asking:
Who is Art Robinson?
Banned speaking, Robinson art on his talking shop, never heard of him, what is his opinion?

I think the public schools should be abolished.
- Art Robinson

Art Robinson on Schools
"The whole public school system is child abuse."
"I think the public schools should be abolished."
Learn more about Art Robinson's opinions on education.

Art Robinson on Nuclear Waste
"All we need do with nuclear waste is dilute it to a low radiation level and sprinkle it over the ocean - or even over America."
Learn more about Art Robinson's opinions on nuclear waste.

Art Robinson on Wall Street
"But what I see in this [Wall Street] reform program right now is a government using a problem as an excuse to grow itself and greatly increase its power and I don't think that should be done."
Learn more about Art Robinson's opinions on Wall Street.

Art Robinson on Social Security
"It is a Ponzi Scheme. ... These entitlement programs need to be ended."
Learn more about Art Robinson's opinions on social security.

Here's the good news.
Oregonians are standing up for Peter DeFazio - a common sense leader who fights for the middle class and isn't afraid to stand up to party leadership and Wall Street.
Will you stand up, join Peter, and fight back?

Volunteer
Join the fight to elect Peter DeFazio to Congress.

Donate
Help Peter DeFazio win the election.

Paid for by Peter DeFazio for Congress.

Powered by Mandala Media.

1 **III. LEGAL ANALYSIS**

2 **A. Disclaimer Allegations**

3 The complaint alleges that each of the eight billboards violated 11 C.F.R. § 110.11, either
4 because it lacked a disclaimer or contained a “deliberately minimized” disclaimer that was
5 unreadable from the highway.¹⁰ The complaint includes color photographs of three billboards
6 with no visible disclaimer and five billboards that it asserts contain unreadable disclaimers,
7 specifically noting the “empty space” around the disclaimers.¹¹ The complaint also alleges that
8 the “Who Is Art Robinson” website did not include a proper disclaimer because the disclaimer
9 was placed where it would be easily overlooked.¹²

10 Political committees must include a disclaimer on all public communications (which
11 includes outdoor advertising facilities, such as billboards), bulk electronic mail, and websites
12 available to the general public, regardless of whether the communication contains express
13 advocacy or solicits funds in connection with a federal election.¹³ A disclaimer notice must be
14 clearly and conspicuously displayed. A notice is not clearly and conspicuously displayed if the
15 print is difficult to read or if the placement is easily overlooked.¹⁴ In printed communications,
16 the disclaimer must be contained within a printed box set apart from the contents of the
17 communications.¹⁵ The print of the disclaimer must be of sufficient size to be “clearly readable”

¹⁰ Compl. at 8. *See also* 52 U.S.C. § 30120.

¹¹ Compl. at 6-7.

¹² *Id.* at 3.

¹³ 52 U.S.C. § 30120; 11 C.F.R. §§ 100.26, 110.11(a)(1).

¹⁴ 11 C.F.R. § 110.11(c)(1).

¹⁵ *Id.* § 110.11(c)(2)(ii).

1 by the recipient of the communication, and the print must have a reasonable degree of color
2 contrast between the background and the printed statement.¹⁶ Commission regulations contain a
3 safe harbor establishing that a fixed, 12-point type size is a sufficient type size for disclaimer text
4 in newspapers, magazines, flyers, signs and other printed communications that are no larger than
5 the common poster size of 24 inches by 36 inches.¹⁷ Disclaimers for larger printed
6 communications such as billboards are judged on a case-by-case basis taking into account the
7 vantage point from which the communication is intended to be seen or read as well as the actual
8 size of the disclaimer text.¹⁸

9 1. Billboards.

10 DeFazio for Congress acknowledges that three of the billboards included in the complaint
11 have no disclaimers and, therefore, failed to comply with the Act's disclaimer requirement.¹⁹
12 The committee asserts that the omission was due to vendor error and that it took prompt remedial
13 action when it learned of the problem.²⁰ In support of its assertions, DeFazio for Congress
14 provided the declaration of Peter DeFazio and e-mails from two vendors to the campaign
15 apologizing for inadvertently leaving out the disclaimers.²¹ In his declaration, DeFazio asserts

¹⁶ *Id.* § 110.11(c)(2)(ii) and (iii). The regulations provide two safe harbor examples that would comply with color contrast requirement: the disclaimer is printed in black on a white background; or the degree of contrast between the background and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication.

¹⁷ *Id.* § 110.11(c)(2)(i).

¹⁸ See Explanation and Justification for Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,965 (Dec. 13, 2002) ("E&J").

¹⁹ See Resp. at 7-8.

²⁰ *Id.*

²¹ Resp. at 7-8; Resp. at DeFazio Declaration ¶¶ 26-28, Exs. N, O. The DeFazio declaration was not prepared in response to this matter; DeFazio had previously prepared and submitted it in separate litigation with Complainant. Declaration of Peter DeFazio in Support of Special Motions (Nov. 5, 2012), *Robinson v. DeFazio*, Josephine County

1 that the campaign contacted the respective vendors as soon as it learned of the omitted
2 disclaimers and they were immediately corrected.²²

3 The five remaining billboards appear to contain disclaimers, though Complainant alleges
4 they are unreadable. DeFazio for Congress argues that these disclaimers met the requirements
5 for color, size, and readability, noting that the disclaimer text was black on white background
6 and that the text size “was far larger than readable” with a character height of at least 10 inches,
7 which is more than 8-fold larger than the equivalent 12-point type size, and occupying 6% of the
8 vertical space of the billboards.²³

9 While the photographs of the five billboards appear to show that a disclaimer was
10 included in each, the Commission does not have enough information in the record to conclude
11 whether or not the disclaimers on these five billboards were clearly and conspicuously displayed.
12 The placement of the disclaimers at the bottom of each billboard does not appear to be out of the
13 ordinary and, therefore, not easily overlooked. Further, with regard to readability, it seems
14 reasonably clear that the disclaimers meet the safe harbor for reasonable degree of color contrast
15 (black print on a white background), although they appear gray in the photos. Similarly, it is
16 difficult to determine if the size of the disclaimer print was sufficient to be “clearly readable”

Circuit Court No. 12CV1144. In his declaration, DeFazio states that on or about October 21, 2012, DeFazio for Congress became aware that one printed billboard and two digital billboards lacked disclaimers. DeFazio Declaration ¶ 26. DeFazio further states that on October 22, 2012, DeFazio for Congress notified the vendor, CBS Outdoor, of the omission on the printed billboard and the vendor immediately added the disclaimer to the billboard. *Id.* ¶ 27. DeFazio provided the e-mail from CBS Outdoor to DeFazio for Congress acknowledging responsibility for the error. Ex. N. With respect to the digital billboards, DeFazio states that the vendor, Bell and Funk, inadvertently omitted the disclaimers and that once DeFazio for Congress became aware of the problem, it instructed the billboard be taken down until corrected. *Id.* ¶ 28. DeFazio also provided the e-mail from Bell and Funk to DeFazio for Congress acknowledging the error and stating that by 4 p.m. on October 22, the disclaimer statement would be displayed on the electronic billboards. *Id.* Ex. O.

²² DeFazio Declaration ¶¶ 27, 28.

²³ Resp. at 7.

1 because of photo quality.²⁴ DeFazio for Congress asserts that the disclaimers “[were] far larger
2 than readable” because of a character height of *at least* 10 inches and occupied 6% of the vertical
3 space of the billboards, but the purported height and width of the billboards varied and we do not
4 know the respective size of the disclaimer used in each instance.²⁵

5 The Commission does not need to draw any specific conclusion about the readability of
6 these five disclaimers because the appropriate outcome in this matter is a dismissal. First, it
7 would not be a prudent use of the Commission’s resources to investigate this matter. The
8 Commission typically declines to pursue violations where a disclaimer is included in a
9 communication, but there is a potential violation stemming from a technical deficiency.²⁶ The
10 information in the record does not suggest that the disclaimers were difficult to read or
11 intentionally minimized to mislead the reader. Further, with respect to the missing disclaimers,
12 the Commission has not typically pursued matters when the respondent has shown that a missing
13 disclaimer was due to a vendor’s inadvertent omission.²⁷ The information submitted by the
14 Committee convincingly shows that the omissions were due to vendor error and that DeFazio for
15 Congress took action to correct the billboards the day after it learned of the issue. Therefore, the
16 Commission exercises its prosecutorial discretion and dismisses the allegation that DeFazio for

²⁴ The Commission specifically declined to create specific safe harbor provision for larger printed communications because it concluded that the vast differences in the potential size and manner of display of larger printed communications would render fixed type-size examples ineffective and inappropriate. *See* E&J, 67 Fed. Reg. at 76,965. Further, there appears to be no precedent evaluating the circumstances under which the Commission has determined what size disclaimer meets the “clearly readable” standard for billboards.

²⁵ According to the complaint, the billboards varied in size. In Sutherlin and Albany, the billboards were 49 by 13 feet; in Roseburg, 49 by 15 feet; and in Coos Bay, 31 by 11 feet. *Resp.* at 7.

²⁶ *See* footnote 29, *infra*.

²⁷ *See e.g.*, MUR 5580 (Alaska Democratic Party) (vendor confirmed it inadvertently deleted disclaimer from mailers); MUR 5133R (Stenberg for Senate) (copy center cut off disclaimer from postcard); MUR 4566 (Democratic National Committee) (vendor failed to include disclaimer on draft mailer and corrected error).

1 Congress violated 52 U.S.C. § 30120 in connection with the billboards, but sends a caution letter
2 with respect to the missing disclaimers.²⁸

3 2. Website

4 Although DeFazio for Congress included a disclaimer on the webpage at the URL
5 address, www.WhoIsArtRobinson.com, Complainant alleges that the placement is not compliant
6 because it is easily overlooked. The disclaimer is located directly below a section that contains
7 DeFazio's photo, name, and volunteer and donation buttons for DeFazio for Congress. This
8 placement is sufficiently clear and conspicuous to "give the reader . . . adequate notice of the
9 identity of the person or political committee that paid for and, where required, authorized the
10 communication."²⁹ Further, the disclaimer appears to comply with all other technical
11 requirements of the Commission's implementing regulations as well. As a result, the
12 Commission concludes that the disclaimer on this website complies with the Act's disclaimer
13 requirements and the Commission finds no reason to believe that DeFazio for Congress and Jef
14 A. Green in his official capacity as treasurer violated 52 U.S.C. § 30120 with respect to the
15 website.

16
²⁸ See e.g., MUR 5580 and MUR 5133R.

²⁹ 11 C.F.R. § 110.11(c)(1); see also 52 U.S.C. § 30120 (describing required disclaimers). But the disclaimer need not appear at the top or front of the page, so long as it appears within the communication. 11 C.F.R. § 110.11(c)(2)(iv). In previous matters, the Commission has dismissed allegations of inadequate disclaimers, even where a communication or solicitation lacked a disclaimer. See, e.g., MUR 6270 (Rand Paul Committee) (Commission dismissed matter where communication lacked a disclaimer, but included sufficient information for recipients to identify the payor); MUR 6278 (Joyce B. Segers) (Commission dismissed under the Enforcement Priority System a matter where committee failed to include a disclaimer on campaign materials but public could reasonably discern from their contents that committee produced the materials and the committee took remedial action); but see MUR 6348 (David Schweikert for Congress) (Commission failed by vote of 3-3 to approve Office of General Counsel's recommendations to find reason to believe that committee violated 2 U.S.C. § 441d(c) (now 52 U.S.C. § 30120(c)) and 11 C.F.R. § 110.11(c) because the disclaimer on a mailer did not have sufficient contrast or separation from rest of the text to be clear and conspicuous).

B. Fraudulent Misrepresentation

Robinson alleges that the content of the billboards — including the lack of proper disclaimers, the photo of Robinson, and the use of false or out-of-context statements attributed to Robinson — fraudulently misrepresented the advertisements as belonging to Robinson and in a manner that was damaging to Robinson. Similarly, the complaint alleges that DeFazio for Congress fraudulently misrepresented the website as Robinson’s and directed viewers to a misleading website that contains false information about Robinson. DeFazio for Congress disputes the claim that the website is misleading, noting that the website prominently displays a “Paid for by Peter DeFazio for Congress” disclaimer.

Section 30124(a)(1) of the Act and section 110.16(a) of the Commission’s regulations provide that “[n]o person shall fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate . . . or employee or agent thereof in a matter which is damaging to such other candidate[.]” But “[e]ven absent an express misrepresentation, a representation is fraudulent if it was reasonably calculated to deceive persons of ordinary prudence and comprehension.”³⁰ The Commission has acknowledged that in some circumstances an adequate disclaimer identifying the person or entity that paid for and authorized a communication may suggest that a respondent did not intend to deceive for purposes of a violation of section 30124(b) of the Act.³¹

³⁰ *Fed. Election Comm’n v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010); *cf. United States v. Thomas*, 377 F.3d 232, 242 (2d Cir. 2004) (citing, *inter alia*, *Silverman v. United States*, 213 F.2d 405 (5th Cir. 1954) (holding that in a scheme devised with the intent to defraud, the fact that there is no misrepresentation of a single existing fact makes no difference in the fraudulent nature of the scheme)).

³¹ See MURs 6633 (Republican Majority PAC), 6641 (CAPE PAC), 6643 (Patriot Super PAC), 6645 (Conservative Strikeforce) (Commission found no reason to believe that respondents violated 2 U.S.C. § 441h (now 52 U.S.C. § 30124) where respondents included a disclaimer and other references to themselves on websites that appeared to support Allen West, but solicited funds on respondents’ behalf); MUR 2205 (Foglietta) (Commission found no reason to believe that respondents violated 2 U.S.C. § 441h (now 52 U.S.C. § 30124) where respondents

1 As discussed above, although the quality of the photographs submitted with the
2 complaint makes it difficult to conclusively determine whether the disclaimers DeFazio for
3 Congress included on its billboards fully satisfied the Act's readability requirements, it is
4 undisputed that DeFazio for Congress in fact included disclaimers that identify its responsibility
5 for those communications. Under these circumstances, where the alleged deficiency is technical
6 in nature, the presence of the disclaimers indicating that DeFazio for Congress paid for the
7 communication is enough to adequately rebut the requisite intent to deceive with regard to the
8 content of the billboards. And though there were at least three billboards without a disclaimer,
9 those omissions were reportedly the result of unintentional vendor error. Thus, those instances
10 similarly lacked the requisite intent to deceive.

11 The claim that the "Who Is Art Robinson?" website misled viewers to believe it was
12 associated with Robinson himself also fails for the same reasons.³² The disclaimer on the
13 website plainly identified its source as DeFazio for Congress, it was placed immediately below
14 the DeFazio contribution buttons within a box and in plain type, and it otherwise complied with
15 the Commission regulations. Moreover, the content of the website and its presentation tend to
16 support the disclaimer's effectiveness and do not reasonably suggest that DeFazio for Congress
17 sought to deceive the viewer concerning the website's actual source through the rhetorical

included a disclaimer on advertising material that altered opponent's disclosure reports and made unsubstantiated negative statements); MURs 3690, 3700 (National Republican Congressional Committee) (Commission found no reason to believe that respondents violated 2 U.S.C. § 441h (now 52 U.S.C. § 30124) where disclaimer disclosed that respondents were responsible for the content of negative satirical postcards that appeared to be written by opposing candidate and committee); *cf.* MUR 5089 (Tuchman) (Commission found reason to believe that a violation of section 441h (now section 30124) of the Act occurred where disclaimer was included only on envelope of solicitation letter because letter itself appeared to come from an entity affiliated with the Democratic Party); *but see* Factual & Legal Analysis at 4 n.2, 9, 11, MUR 5472 (Republican Victory Committee) (Commission found that the presence of disclaimer in mailings did not negate intent to deceive based upon the particular circumstances presented).

³² Compl. at 3.

1 approach it took in opposition to Robinson. Indeed, a significant portion of the home page
2 contains material advocating for DeFazio, prominently stating "Here is the good news.
3 Oregonians are standing up for Peter DeFazio — a common sense leader who fights for the
4 middle class and isn't afraid to stand up to party leadership and Wall Street. Will you stand up,
5 join Peter, and fight back?" For these reasons, the Commission sees no basis to conclude that
6 DeFazio for Congress fraudulently misrepresented that the website was "speaking or writing or
7 otherwise acting for or on behalf of" candidate Robinson.

8 Accordingly, the Commission finds no reason to believe that DeFazio for Congress and
9 Jef A. Green in his official capacity as treasurer violated 52 U.S.C. § 30124(a).